

There are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent or distinct as claimed; and (B) There would be a serious burden on the examiner if restriction is not required.

(MPEP §803, citations omitted.) Thus, there are two requirements for restriction: distinctness and a serious burden. Both are required; distinctness without a serious burden is not sufficient to justify restriction. Indeed, §803 explicitly states that "[i]f the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions."

While the claims of **Groups I and II** may satisfy the Office's requirements for distinctness, consideration of **Groups I and II** would not result in a serious burden on the Office. For example, it is noted that the claims in both groups have been classified in the same class—and even the same subclass. Therefore, there is no serious burden on the Examiner to search both groups of claims.

For the reasons stated above, Applicants request that the Examiner withdraw the Restriction Requirements between **Groups I and II** and allow prosecution of **claims 43 and 47–49** along with the prosecution of elected **claims 1–42 and 44–46**.

It is submitted that the claims of the present application are in condition for allowance. Early notice thereof is respectfully requested.

Should the Commissioner decide that any fee or fee deficiency is due, the Commissioner is hereby authorized to charge any and all such fees, and/or credit any overpayments, incurred as a result of entering this response to Deposit Account No. 03-0172, Order No. 29131.04003.

Respectfully submitted,

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